

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:14-CR-00152-RJC

USA

v.

JAMES RICHARD LUMSDEN (3)

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ORDER

THIS MATTER is before the Court upon motion of the defendant pro se for a recommendation for early release from confinement. (Doc. No. 96).

Title 18, United States Code, Section 3624(c) allows the Bureau of Prisons (BOP) to place a prisoner in pre-release custody under conditions, including a community correctional facility or home confinement, for the last portion of his sentence to prepare him for re-entry into the community. The Second Chance Act of 2007, among other things, expanded the allowable time period for pre-release custody from six to twelve months, but limits the time in home confinement to six months. Pub. L. No. 110 199, § 251, 122 Stat. 657, 692-93 (2008). The Act clearly states that it does not alter the BOP's authority to designate the place of the prisoner's imprisonment under 18 U.S.C. § 3621, and prohibits a court from ordering that a sentence be served in a community confinement facility. Id. The First Step Act of 2018, among other things, amended § 3624(c) by adding a sentence directing the BOP to place qualifying prisoners on home confinement for the maximum amount of time permitted. Pub. L. 115-135, § 602.


The defendant recognizes the BOP is ultimately responsible for placement at a residential re-entry center or home confinement, but asks the Court to recommend

additional time in such placement. (Doc. No. 96: Motion at 1). Although the Court appreciates the defendant's efforts to improve himself during confinement and his desire to work and care for family after release, the Court declines to recommend his early release because the BOP is in a better position to make the necessary assessment.

IT IS, THEREFORE, ORDERED that the defendant's motion is **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, counsel for the defendant, to the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: April 28, 2020


Robert J. Conrad, Jr.
United States District Judge

